

Claims 1-3 stand rejected under 35 USC 103 as being unpatentable over De Prospero. In view of the following comments, it is respectfully requested that this rejection be reconsidered.

De Prospero discloses a high molecular weight polymer of glycolic acid. This novel polymer is disclosed as being substantially free from impurities that impair extrusion and stretch properties as well as strength retention. These properties are important as the disclosed polymer is to be used as a surgical suture (De Prospero, col. 1, lines 14-24).

The instant invention describes either a homopolymer of lactic acid or a copolymer of lactic acid and glycolic acid. There is no teaching or suggestion in De Prospero for such a homopolymer or copolymer. The Office Action states that because De Prospero suggests removing impurities from polyglycolic acid, the reference also suggests removing impurities from polylactic acid and polylactic/glycolic acid. However, this would only be true if De Prospero suggested that extrusion and stretch properties as well as the strength retention of polylactic and polylactic/glycolic acid were improved by removing impurities by the disclosed method. De Prospero suggests neither.

Furthermore, Claims 1-3 describe a composition of matter, not a method. Even if De Prospero does suggest some type of "method," this has nothing to do with a claim describing a composition of matter. As the Office Action itself states, the patentability of a product does not depend on its method of production. See In re Thorpe, 227 USPQ 964 (Fed. Cir. 1985), and In re Fitzgerald, et al., 205 USPQ 594 (CCPA 1980).

Finally, the De Prospero method is removing impurities by vaporizing polyglycolic acid in an inert gas atmosphere (De Prospero, col. 1, lines 25-30). There is no suggestion that such vaporization would reduce the claimed water-soluble low molecular compounds of the instant invention below the claimed levels. In other words, there is nothing to suggest that the "vaporized" impurities would be water-soluble impurities as well.

Claims 1-3 also stand rejected under 35 USC 103 as being unpatentable over Casey et al. Applicants respectfully request that this rejection be reconsidered in view of the further comments recited below.


As in De Prospero, Casey et al. disclose only a polymer of glycolic acid useful as a suture (Casey et al., col. 1, lines 5-10). Like De Prospero, Casey et al. disclose that removing impurities from polyglycolic acid improves its strength (Casey et al., col. 1, lines 23-26). Casey et al. teaches the removal of impurities from polyglycolic acid by heating (Casey et al., col. 2, lines 18-23).

Everything recited above concerning the applicability of the De Prospero reference to the instant invention can also be applied to the applicability of Casey et al. Casey et al. does not suggest either a homopolymer of lactic acid or copolymer of lactic acid and glycolic acid, nor is there any suggestion that heating polyglycolitic acid as disclosed in Casey would reduce water-soluble impurities as claimed in the instant invention.

Claim 11 stands objected to as being depended from a rejected claim. In view of the foregoing comments, it is requested that this objection be reconsidered as well.

Accordingly, Claims 1-11 and 15 being considered allowable, a favorable Action is hereby requested.

Respectfully submitted,
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